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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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In the Matter of

Federal Communications Commission
Office of Secretary

Amendment of Section 73.202(b),
Table of Allotments,
FM Broadcast Stations
(Cambridge and St. Michaels, Maryland)

)
)
)
) MB Docket No. 04-20
) RM-10842
)

To: The Secretary

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**OPPOSITION TO MOTION FOR LEAVE
TO FILE SUPPLEMENTAL COMMENTS**

CWA Broadcasting, Inc. ("CWA"), the licensee of Station WINX-FM, Cambridge, Maryland (the "Station" or "WINX"), by its attorneys and pursuant to 1.45(b) of the Commission's Rules, hereby opposes the Motion for Leave to File Supplemental Comments filed by MTS Broadcasting, L.C. ("MTS") in the above-referenced proceeding in which CWA seeks to modify the Station's community of license from St. Michaels, Maryland to its original community of license, Cambridge, Maryland and upgrade its operation to Class B-1 on Channel 232 (CWA's Cambridge Proposal").¹ In support thereof, CWA states as follows.

In response to the Media Bureau's *Notice of Proposed Rulemaking*, DA 04-231, released February 13, 2004 (the "*NPRM*") setting forth CWA's Cambridge Proposal, MTS submitted its Counterproposal to allot Channel 233A to Newark, Maryland ("MTS Newark Counterproposal"). In Reply Comments, CWA demonstrated that Newark, Maryland did not

¹ On June 30, 2004, CWA submitted a Motion for Extension of Time requesting until July 9, 2004 in which to oppose MTS's Supplemental Comments.

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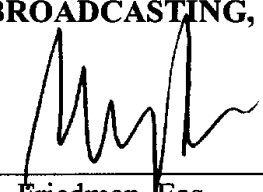
satisfy Commission criteria for a community for allotment purposes, and that MTS's Newark Counterproposal could not be considered as a viable alternative to CWA's Cambridge Proposal.

MTS submitted its Motion for Leave to File Supplemental Comments and its Supplemental Comments after the pleading cycle in this proceeding had closed. As a procedural matter, MTS's Supplemental Comments do not warrant Commission consideration. MTS's Supplemental Comments have no basis in the Commission's Rules and Regulations. Section 1.420 of the Commission's Rules provides for the submission of comments (including counterproposals) and reply comments in proceedings for amendment of the FM Table of Allotments. *See* 47 C.F.R. § 1.420. No other pleadings are permitted. Pursuant to these procedures, MTS was given its opportunity to make its case for Newark, Maryland. Having failed to make a satisfactory argument, MTS now seeks a second bite at the apple. The Commission should not permit MTS to bend Commission procedure to accommodate MTS's attempt to overcome its failure to support its own Counterproposal. *See Christiansted, Virgin Islands*, 10 FCC Rcd 8078 (MMB 1995) (declining to accept supplemental comments after pleading cycle closed in FM rulemaking proceeding). Accordingly, the Motion for Leave to File should be denied.

WHEREFORE, for the foregoing reasons, CWA Broadcasting, Inc. respectfully requests that the Commission deny the Motion for Leave to File Supplemental Comments filed by MTS Broadcasting, L.C., dismiss MTS's Supplemental Comments and grant the Petition for Rulemaking and modify Section 73.202(b) of the Commission's Rules to change the channel 232 allotment from St. Michaels to Cambridge, Maryland, upgrade the allotment from Class A to Class B1, and modify the license of Station WINX-FM accordingly.

Respectfully submitted,

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July 9, 2004

CERTIFICATE OF SERVICE


I, John C. Butcher, hereby certify that I have served on this 9th day of June, 2004, a copy of the foregoing **Opposition to Motion for Leave to File Supplemental Comments** upon the following parties by first-class mail, postage pre-paid:

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